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EXAMINER

PELHAM, JOSEPH MOORE

ART UNIT	PAPER NUMBER
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3742

DATE MAILED: 03/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/865,920

Applicant(s)

SANONER ET AL.

Examiner

Joseph M Pelham

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondenc address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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1. The examiner acknowledges Applicant's submission of the amendment filed 1/13/03. Claims 1-26 remain pending.

***Claim Rejections - 35 USC § 112***

2. Claims 19-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19, at line 10, recites "said controller," which lacks antecedent basis.

***Claim Rejections - 35 USC § 103***

3. Claims 1-12 and 15-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6140614 to Padamsee in view of U.S. Patent 5842353 to Lin (Kuo-Liang in the patent) and U.S. Patent 5678925 to Garmaise et al.

Referring to Figure 1 and column 3, lines 49-51, especially, Padamsee discloses or suggests an electrically heated mug substantially as claimed, including, including thermostat 48 and lid. Padamsee does not disclose or suggest control means attached to the mug for user selection of temperature, depressible key means for temperature selection, LED or LCD visual temperature display, a buzzer for indicating attainment of a desired temperature, heater control logic which activates heating at 2°F below and deactivates heating above the set point temperature.

Lin discloses, at Figure 1, the desirability of control means 18 for user selection of temperature for a portable beverage warmer, and visual temperature display 22, for which LED or LCD are conventional means. Garmaise et al discloses, at Figure 1 and column 5, lines 25-32, temperature display 13 and control means 18a integrally attached to an outer surface of a drinking mug. It would have been obvious to adapt the control enhancements suggested by Lin to the mug of Padamsee to improve temperature control, and to integrally attach the control unit to the side of the mug, after the manner of Garmaise et al, for the sake of more convenient monitoring and control by the user.

The examiner notes that depressible key means for temperature selection, a buzzer for indicating attainment of a desired temperature, and heater control logic which activates heating at 2°F below and deactivates heating above the set point temperature, are all well known adjuncts to household heating devices and hence cannot be regarded to patentably distinguish the claimed invention from the prior art of record. It would have been obvious to utilize depressible key means for temperature selection to allow single finger control, to include a buzzer to avoid the hazard of visual monitoring during operation of a motor vehicle, and to employ a 2°F temperature control tolerance to accommodate the coffee drinker of exacting tastes.

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4. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Padamsee in view of Lin and Garmaise et al, as applied to claims 1-12 and 15-26 above, and further in view of U.S. Patent 5042258 to Sundhar.

The claims differ from Padamsee in view of Lin and Garmaise et al in calling for a removable mug liner. However, Sundhar discloses a removable mug liner 25 (see Figure 2 and column 3, lines 19-22). It would have been obvious to adapt the liner of Sundhar to the mug suggested by Padamsee in view of Lin and Garmaise et al to allow convenient cleaning of the vessel.

#### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new grounds of rejection.

The examiner notes, however, that Applicant's argument at page 6 of the Amendment, that the detachable control module of Lin teaches away from the claimed invention, is not persuasive, since it considers only the bodily incorporation of the structure of Lin. The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Moreover, Applicant's discussion of Lin treats the reference separately, whereas the rejection is based on the combination of Padamsee and Lin (& now Garmaise et al).

The mug of Padamsee is intended to be a self-contained unit for use in an automobile; Lin discloses a desk top beverage heater, which utilizes the recited control means. The need for compactness in a portable mug, and the inconvenience of a plurality of components, militate against the bodily incorporation of the structure of Lin; however, Garmaise et al discloses control means integral with the side wall of the mug, immediately suggesting that the enhanced control means of Lin may be incorporated into the mug of Padamsee without compromising convenience.

#### ***Conclusion***

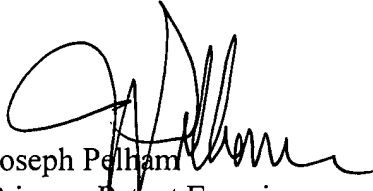
6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

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will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning communications from the Examiner should be directed to Joseph Pelham at (703) 308-1709; fax: 703-872-9302 (before final), 703-872-9303 (after final), 703-872-9301 (customer service).



Joseph Pelham  
Primary Patent Examiner  
Art Unit 3742

JMP  
March 17, 2003